IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Writ Petition No.5845 of 2007
[P.S. Perkar Vs. G.S. Sonkusare]

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

Mr. I.S. Charlewar, Advocate for the petitioner.

CORAM : A.H. JOSHI, J.

DATE : 19th December,2007.

1. Heard.

2. The Trial Court had partly decreed the suit.

3. The tenant as well as landlord preferred appeals. While tenant's appeal has been dismissed, landlord's appeal has been allowed. The Judgment delivered in appeal is under challenge in this petition.

4. Trial Court had not accepted the landlord's plea of bona fide and reasonable personal requirement. The Appellate Court has discussed the need of the landlord in paragraph nos. 20 to 26 of its Judgment and dealt with the aspect of landlord's personal requirement as well as aspect of comparative hardship.

5. The findings recorded by the Appellate Court are based on re-appreciation of evidence. The Trial Court had found that no documentary evidence was brought by the landlord to prove that the landlord's sons were earlier employed, they had thereafter resigned their jobs and now they have settled at Nagpur.

6. It is well settled that the landlord's statement on oath about his personal requirement, when it stands to the test of cross-examination, all other considerations do not outweigh what has been proved by landlord being the matter of his bona fide personal requirement. The First Appellate Court, therefore, disagreed with the Trial Court, and held that the landlord's bona fide personal requirement was duly proved.

7. In so far as other matters are concerned, those pertain to amount of rent, electricity charges etc.. The fact-finding done by the Appellate Court in relation to these matters is not shown to be perverse. The matters of appreciation of evidence have to restrict to the stage of First Appellate Court. The findings of First Appellate Court, unless those are shown to be perverse, cannot be interfered. The Writ Petition cannot be converted into a Court of third trial or an appeal at second instance. No interference is called for.

8. Writ Petition is, therefore, dismissed.

Judge

|Hedau|